UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

NATHAN SMITH Plaintiff	§	
	§	
	§	
V.	§	CIVIL ACTION H-07-784
	§	
THE ABANDONED VESSEL, ET AL. Defendant.	§ § §	

PLAINTIFF, NATHAN SMITH'S, UNOPPOSED MOTION TO SEAL DOCUMENTS

COMES NOW, Plaintiff, Nathan Smith, ("Mr. Smith"), and files this Unopposed Motion to Seal the Court's Documents, and in support shows as follows:

A.
INTRODUCTION

1. This case involves a claim to a lost vessel potentially bearing treasure valued in the millions of dollars. Mr. Smith requests that the Court seal the Plaintiff's Original Complaint **(DKT #1)**, the Motion for Entry of Order and attachments **(DKT #4);** Order Granting Motion for Entry of Order **(DKT #6)**; Order on Entry of Judgment and Declaratory Judgment **(DKT #11)**, Plea in Intervention, Opposed Motion for New Trial, Plea to the Jurisdiction, Motion to Transfer Venue and Objection to Plaintiff's Motion for Declaratory Judgment **(DKT #12)**, the Intervenor's Emergency Opposed Motion to Stay Declaratory Judgment **(DKT #13)**, and all future papers and evidence that identify the location of the vessel. This relief is necessary to protect the vessel, Mr. Smith's work in locating the vessel, and Mr. Smith's rights.

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B.
FACTUAL BACKGROUND

2. On March 6, 2007, Mr. Smith filed his Original Complaint, wherein the location of the vessel was disclosed by providing its longitudinal and latitudinal coordinates.

3. On September 7, 2007, the Court signed an Order on Entry of Judgment and Declaratory Judgment in Mr. Smith's favor.

4. On September 11, 2007, Intervenor, Marie Sorenson, filed a Plea in Intervention, Opposed Motion for New Trial, Plea to the Jurisdiction, Motion to Transfer Venue, and Objection to Plaintiff's Motion for Declaratory Judgment with Orders.

5. On September 14, 2007, the Court signed the Order Vacating Entry of Judgment and Declaratory Judgment that was entered on September 7, 2007.

C.
ANALYSIS

6. The decision, as to access to Court records is left to the sound discretion of the trial court, a discretion to be exercised in light of the relevant facts and circumstances of the particular case. *See Nixon v. Warner Communication, Inc.,* 435 U.S. 589, 599 (1978). In exercising its discretion to seal judicial records, the court must balance the public's common law right of access against the interests favoring non-disclosure. *See S.E.C. v. Van Waeyenberghe*, 990 F.2d 845, 848 (5th Cir.1993). The right to inspect and copy judicial records is not absolute. *See Nixon,* 435 U.S. at 598. Every court has supervisory power over its own records and files, and access has been denied where court files might have become a vehicle for improper purpose, such as sources of business information that might harm a litigant's competitive standing. *See Nixon,* 435 U.S. at 598. The District Court's decision to seal is reviewed for abuse of discretion. *See Belo Broadcasting Corp.*

v. Clark, 654 F.2d 423, 431 (5th Cir. 1981).

7. This is a dispute between private litigants. The subject of the dispute is a vessel that has been lost for almost 200 years, which Mr. Smith, through hard work and dedication, has located. As the judgment awarding Mr. Smith ownership and title to the vessel has been set aside, the vessel's location is highly sensitive and valuable information. Thus, disclosure of the location of the vessel harms Mr. Smith's competitive standing against other potential salvors and/or finders.

8. Admittedly, the vessel's location was disclosed in the aforementioned pleadings and attachments. However, at the time those pleadings were filed, Mr. Smith was represented by different counsel. Mr. Smith and his present counsel recognize the gravity and potential harm the disclosure of the ship's location could work on Mr. Smith's claim. Therefore, Mr. Smith, by way of his Motion to Seal Documents, is seeking to limit that potential harm.

9. Mr. Smith has a specific, serious and substantial interest that outweighs the public's right of access to the Court's records. Practically speaking, if the Court's records are not sealed, the possibility exists that multiple parties could use the coordinates to locate the vessel and eventually assert claims to or remove property from the vessel. Sealing the Court's records is the least restrictive means that would adequately protect this specific and serious interest. Moreover, there is no compelling public interest in the records at this time.

D. CONCLUSION

10. In light of the relevant facts and circumstances of this case, the factors favoring non-disclosure outweigh the public's right of access to the designated Court records and future pleadings and evidence that disclose the longitudinal and latitudinal coordinates and/or location of the vessel.

WHEREFORE, PREMISES CONSIDERED, Nathan Smith requests that the Court grant this motion, seal the documents found at docket entries 1, 4, 6, 11, 12, and 13, enter an order that all future pleadings and evidence related to the location of the vessel be sealed, and grant Plaintiff such other relief to which he is justly entitled.

Respectfully submitted,

/s/ Richard Schwartz

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CERTIFICATE OF CONFERENCE

I certify that I conferred with counsel for Intervenor regarding this motion and it is unopposed.

/s/ Richard Schwartz
Richard A. Schwartz

CERTIFICATE OF SERVICE

I certify that on the 20th day of November 2007, a true and correct copy of the foregoing ***Plaintiff, Nathan Smith's, Unopposed Motion to Seal Documents*** was served on the following counsel by facsimile and first class U.S. mail:

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